IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7920 OF 2006

1. Ananda Maruti Malgaonkar & ors.] .. Petitioners

Versus

1. Central Iron Works & 2 ors.] .. Respondents

Mr. Amit B. Borkar for the petitioners.

Mr. S.S. Tambekar for the respondents No.1 & 2.

CORAM: S.B. MHASE &
R.S. MOHITE, JJ.

DATED: 28TH JUNE, 2007

P.C. :

. Heard both sides.

2. The IDA-Application No. 159 of 1995 was decided by the Labour Court, Kolhapur on 4th January, 1997 and the respondent-employers were directed to pay the amount of wages of Rs.2,92,08,434/- to the employees in Annexure-B within a period of one month. Thereafter, the Miscellaneous Application No. 3 of 1997 was filed by the respondent-employers for setting aside the said order passed on 4th January, 1997, which was dismissed in default on 24th February, 1999, and thus the exparte proceedings attained finality. The employer thereafter

kept silent for years together and ultimately the employer has filed Misc. (IDA) Application No.1 of 2006 again to set aside the said order. In these proceedings, the Labour Court by order dated 1st February, 2006, stayed the order passed in the above Complaint and thereafter the matter is being protracted by the respondent-employers. The wages which were due from 1997 has not been paid. Not a single farthing has been parted with by the respondent-employers and stay has been obtained. In the peculiar facts and circumstances of the case, the Labour Court should have asked the employer to deposit the amount of Rs.2,92,08,434/- as a condition precedent for granting stay. Since it was a monetary claim towards wages of the workers who have worked with the respondent and the money is being utilized by the respondent in their business, this amounted to squeezing of the employees and misuse of the process.

3. Under these circumstances, what we find is that the grant of stay by the Labour Court without any condition was unjustified. We, therefore, direct the respondent-employers to deposit the amount of Rs.2,92,08,434/- within a period of four weeks with the Labour Court. The said amount, if deposited, shall not be disbursed till the final disposal of the interim

application on merit and/or till the final disposal of the application to set aside the order of the ULP Complaint. If the amount is deposited, the Labour Court is hereby directed to invest the said amount with any Nationalized Bank, initially for a period of six months. Within the period of six months, the application for setting aside the order shall be decided. We make it clear that if the amount is not deposited by the respondent-employers, the stay shall stand vacated and the auction of the properties as per the execution of the orders of the ULP Complaint shall continue.

4. With the above directions, the Writ Petition is disposed of.

Sd/-
[R.S. MOHITE, J.]

Sd/-
[S.B. MHASE, J.]